

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

RSA No.258 of 2011 (O&M)

Date of decision : 10.03.2016

Dharampal

...Appellant

Versus

State of Haryana and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Sukhdeep Parmar, Advocate for the appellant.

Mr. D.K. Mittal, DAG, Haryana.

AMIT RAWAL, J. (Oral)

CM No.718-C of 2011

For the reasons stated in the application, which is duly supported by an affidavit, delay of 93 days in refiling the present appeal is condoned.

Application is allowed.

CM No.719-C of 2011

The application is allowed as deficiency in Court fees has been made good subject to all exceptions.

Applications stands disposed of.

Main case

The appellant is aggrieved of the dismissal of the suit, whereby he had challenged the recovery proceedings being initiated on account of arrears of land revenues.

Mr. Parmar, learned counsel appearing on behalf of appellant-plaintiff submits that suit for permanent injunction was filed restraining the defendants from realizing the amount of ₹18,352/- and another amount as arrears of land revenue therefore warrant of arrest was challenged as legal notice purported to have been sent under Section 53(2) of the Haryana Panchayati Raj Act, 1994 dated 01.01.2004 and the assessment order was passed on 03.07.2000, were barred by law of limitation. Even otherwise, FIR was registered in respect of embezzlement done for the period of 1988 to 1994. Though, sum of ₹20,000/- and ₹1157.54/- was deposited on 18.12.1996 and 01.03.2000 i.e. prior to the time of order of assessment therefore assessment order is not sustainable in the eyes of law.

Mr. D.K. Mittal, DAG, Haryana submits that there is no illegality and perversity in the judgment and decree of the both the Courts below which are based on the concurrent findings of fact and suit for simpliciter is not maintainable.

I have heard learned counsel for the parties and appraised the paper book and of the view that simplicitor suit for permanent injunction was not maintainable. At the best, declaration ought to have been sought. Even otherwise, the payment of ₹20,000/- qua the alleged embezzlement had been deposited thus rightly so the remaining amount of ₹9352.06/- was sought to

be recovered as arrears of land revenue. In view of the fact that the appellant-plaintiff has acknowledged the outstanding amount, much less, suit for simplicitor was not maintainable. Limitation as per Sub Section 5 of Section 53 of Act is six years.

No ground for interference is made out, much less, no substantial question of law arises for determination.

Appeal is dismissed.

10.03.2016

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**(AMIT RAWAL)
JUDGE**